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Chairman: Mr. Wenaweser ..... (Liechtenstein)

Contents

Agenda item 109: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*)

Agenda item 107: Elimination of racism and racial discrimination

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*)

Agenda item 108: Right of peoples to self-determination (*continued*)

Agenda item 109: Human rights questions

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*)

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The meeting was called to order at 3.15 p.m.

Agenda item 109: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/57/L.36, A/C.3/57/L.37, A/C.3/57/L.38 and A/C.3/57/L.39)

Draft resolution A/C.3/57/L.36: Torture and other cruel, inhuman or degrading treatment or punishment

1. **Ms. Gunnarsdóttter** (Iceland), speaking also on behalf of the other Nordic countries Denmark, Finland, Norway and Sweden, introducing the draft resolution on behalf of the sponsors, announced that the delegations of Albania, Angola, Bosnia and Herzegovina, Burundi, Cameroon, Ghana, Jordan, Lesotho, Liberia, Mali, Mozambique, Nicaragua, the Republic of Korea, Suriname and Timor-Leste wished to add their names to the list of sponsors.

2. The text stressed the absolute right to freedom from torture and cruel or inhuman treatment or punishment and recalled the duty of Member States to prevent and eliminate such practices within their countries. It condemned all forms of torture, noted the important role of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment and appealed for adequate funding of the United Nations Voluntary Fund for Victims of Torture. She hoped the draft resolution would be adopted by consensus.

Draft resolution A/C.3/57/L.37: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

3. **Mr. Simancas** (Mexico), introducing the draft resolution on behalf of the sponsors, announced that the delegations of Bangladesh, Ecuador, Mozambique, Namibia, Nigeria, the Philippines and Suriname wished to add their names to the list of sponsors. The text updated previous resolutions adopted without a vote by the General Assembly and took into account progress made. It called on Member States which had not yet done so to ratify or accede to the Convention, because only one further ratification or accession was necessary for it to enter into force. It requested the Secretary-General to make all necessary provisions for the timely establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, referred to in article 72 of the Convention, and also to provide all the facilities and assistance necessary for the promotion of the Convention through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights. He hoped the draft resolution would be adopted without a vote.

Draft resolution A/C.3/57/L.38: Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

4. **Ms. Kent** (Canada), introducing the draft resolution on behalf of the sponsors, announced that the delegations of Benin, Bosnia and Herzegovina, Burkina Faso, Cameroon, Costa Rica, Croatia, the Czech Republic, the Dominican Republic, Ecuador, Hungary, San Marino, Sierra Leone, Slovakia and The former Yugoslav Republic of Macedonia wished to add their names to the list of sponsors. She informed the Committee that, in operative paragraph 12 of the draft resolution, the words "and the Division for the Advancement of Women" had been omitted and should be inserted following the words "Office of the High Commissioner".

5. The text reaffirmed the importance of the treaty body system for the full and effective implementation of human rights instruments. It updated and streamlined the similar resolution adopted at the fifty-fifth session of the General Assembly, took note of progress made in improving the effectiveness of the treaty body system and encouraged further efforts to that end. It called for increased awareness of the availability of technical assistance for States Parties provided by the Office of the High Commissioner, welcomed efforts to eliminate the backlog of reports by States Parties and called for adequate funding of the human rights treaty body system.

Draft resolution A/C.3/57/L.39: United States of America amendment to draft resolution A/C.3/57/L.30

6. **Mr. Gaffney** (United States of America) said that his delegation's proposed amendment to draft resolution A/C.3/57/L.30 addressed its concerns regarding the manner in which the latter had been brought to a vote in the Commission on Human Rights

and subsequently in the Economic and Social Council and about the flawed instrument which had resulted from that process. His Government unequivocally condemned all forms of torture and strongly supported international efforts to eliminate that despicable practice, punish the guilty and compensate victims. It was a State Party to the United Nations Convention against Torture and was the single largest donor to the United Nations Voluntary Fund for Victims of Torture.

7. There had however been substantial disagreement with regard to the draft Optional Protocol in both the Commission on Human Rights and the Economic and Social Council. His delegation had tabled an alternative text which would have given the existing Committee against Torture the ability to undertake voluntary visits to States as a follow-up to State Party reports and had informally indicated a willingness to consider inclusion of an "opt in" clause permitting ad hoc visits. Regrettably, those efforts had been unsuccessful. The Subcommittee to be created by the Optional Protocol would carry out only minimal follow-up visits to State Party reports and would therefore be of questionable effectiveness. The flaws in the proposed instrument could be remedied, but unfortunately efforts to refer the draft Optional Protocol to a working group of the Third Committee had been unsuccessful. Furthermore, the draft Optional Protocol did not have the customary broad international support expected for human rights instruments and should not be funded through the regular budget. Only States parties to the draft Optional Protocol should be required to pay its implementation costs.

8. The Committee did not have the cost information necessary to determine the financial impact of the draft Optional Protocol before voting on adoption of the draft resolution but the costs would certainly be substantial. He did not agree that requiring that the costs arising out of the Optional Protocol be borne only by States Parties would create a dangerous precedent for human rights instruments. The six existing treaty bodies, funded out of the general budget, enjoyed widespread international acceptance. A truly dangerous precedent would be set by attempting to bring within the regular budget of the United Nations a treaty which conspicuously lacked widespread support. While he agreed that the protection of human rights should not be dictated by finances, the proposed draft Optional Protocol risked diverting resources from the work of other more results-oriented bodies, including the Committee against Torture itself.

9. **Mr. Tomoshige** (Japan) said that he strongly supported the United States amendment contained in document A/C.3/57/L.39, which was not intended to prevent developing countries from acceding to the Optional Protocol. He had serious concerns about the lack of due process during negotiations and pointed that many delegations including his own, had raised concerns with regard to the draft Optional Protocol which had not been addressed. It was unfair to impose an additional financial burden on all Member States if the draft Optional Protocol was flawed with regard to both its procedure and substance.

10. **Mr. Hahn** (Denmark), speaking on behalf of the European Union, said that the European Union could not support the amendment proposed by the United States; there could be no price put on the prevention of torture. Recalling that all human rights treaty bodies were financed from the regular budget of the Organization, he believed that the costs arising out of the draft Optional Protocol should likewise be funded from the regular budget.

Agenda item 107: Elimination of racism and racial discrimination

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/C.3/57/L.34 and A/C.3/57/L.35)

Draft resolution A/C.3/57/L.34: Comprehensive implementation of and follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

11. **Ms. Kislinger** (Venezuela), speaking on behalf of the Group of 77 and China, introduced the draft resolution. She said that, in operative paragraph 39 of the text, the name of the Special Rapporteur had been omitted and should be inserted following the words "mandate of the Special Rapporteur". The draft resolution incorporated the major elements of General Assembly resolutions 56/265, 56/266 and 56/267 as well as Commission on Human Rights resolution 2002/68.

12. The text in particular recalled general recommendation XV (42) of the Committee on the Elimination of Racial Discrimination according to which prohibition of the dissemination of all ideas based on racial superiority or racial hatred was compatible with the right to freedom of opinion and expression. It also stressed the importance of the Intergovernmental Working Group established by Commission on Human Rights resolution 2002/68 for ensuring adequate follow-up to the Durban Declaration and Programme of Action and the responsibility of States and international organizations to ensure that measures taken in the struggle against terrorism did not make use of racial profiling. In addition, bearing in mind United Nations Educational, Scientific and Cultural Organization resolution 31 C/28, it proclaimed 2004, the two-hundredth anniversary of the independence of Haiti, the International Year to Commemorate the Struggle against Slavery and its Abolition. Lastly, she noted that a broad consensus had become apparent during negotiations and hoped that the draft Optional Protocol would be adopted without a vote.

Agenda item 108: Right of peoples to self-determination (*continued*) (A/C.3/57/L.35)

Draft resolution A/C.3/57/L.35: The right of the Palestinian people to self-determination

13. **Mr. Roshdy** (Egypt), introducing the draft resolution on behalf of the sponsors, announced that the delegations of Afghanistan, Chile, Ecuador, Liberia, Mali, Namibia, Norway, Somalia, Suriname and Ukraine wished to add their names to the list of sponsors. The draft resolution reaffirmed the Palestinian people's inalienable right to self-determination and an independent State and recognized the need for negotiations to achieve peace in the Middle East. He hoped that the adoption of the draft resolution would be an indication of the international community's will to ensure that Israel met its international commitments and ended its illegal occupation and would pave the way for all the peoples of the region to live in peace within secure frontiers.

Agenda item 109: Human rights questions

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/134, 138, 140, 182, 205 and Add.1, 274, 275, 277, 283, 311 and Add.1, 323, 356, 357, 369, 371, 384, 385, 394, 446 and 484)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/57/230, 284, 290 and Corr.1, 292, 309, 325, 326, 345, 349, 366 and Add.1 and 433; A/C.3/57/5)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/57/36, 446)

14. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq), introducing his third interim report on the situation of human rights in Iraq (A/57/325), welcomed the decree of the Revolutionary Command Council, signed by President Saddam Hussein on 20 October 2002, which granted a general amnesty for all prisoners, including most political prisoners. In Abu Ghraib Prison, Baghdad, the appalling conditions of detention represented a serious violation of article 7 of the International Covenant on Civil and Political Rights. Prompted by media reports of public demonstrations and of relatives seeking information on unreleased prisoners, and on the basis of past information concerning involuntary disappearances, extrajudicial executions and detentions without trials, he had requested the Government of Iraq to provide full details of the numbers of inmates released and those not benefiting from the amnesty. According to information received on 24 October 2002, several journalists had been ordered to leave the country for reporting on prison protests. He wished to urge the Government to allow them to remain in Iraq.

15. With regard to the unintended humanitarian consequences of the international embargo against Iraq, to which he had always paid special attention, improvements were in evidence in most sectors, according to a recent report of the Office of the Iraq Programme. In that connection, more funds should be allocated to such key sectors as health and nutrition,

and the period between the placing of orders and delivery should be shortened. The number of applications on hold should also be considerably reduced. For the plight of the Iraqi people to be alleviated and the embargo to be brought to an end, the only solution was for the Government of Iraq to comply fully with all Security Council resolutions, including on the issue of weapons of mass destruction.

16. During a first, exploratory visit to Iraq, in February 2002 (E/CN.4/2002/44), he had met with Government officials, police officers, prison judges, lawyers and religious dignitaries. Consultations with the United Nations country team had proved particularly valuable. His main focus during the visit had been: the list of crimes currently carrying the death penalty; the list of executions carried out in Iraq during 2000 and 2001; prison conditions and reform; the decree permitting the changing of ethnicity to Arab; "Arabization"; and the decree regarding the naming of children. Although he had received a number of clarifications during his visit, several issues merited more thorough consideration. The visit had paved the way for the more confident dialogue that had ensued, but the content and repetitive nature of some of the information provided by the Government of Iraq had been somewhat disappointing.

17. During a visit to the Islamic Republic of Iran in January 2002, he had received unconfirmed allegations of religious persecution of Shi'a Muslim religious leaders in Iraq. Further reports had also been received of extrajudicial killings, torture and secret detention places. Information received subsequently had yet to be conveyed to the Government of Iraq for comment, including Kurdish reports of "Arabization" and allegations of thousands of children receiving military training in difficult conditions and of parents who refused to cooperate having their ration books withdrawn. There had been no progress on the issue of Kuwaiti prisoners of war and missing persons. The Government must act decisively to resolve that humanitarian problem, including by cooperating with the Tripartite Commission. Encouraging developments, however, included the gradual return of archives to Kuwait and the Government's positive response to his request for a further, longer, visit to Iraq. The dates would be decided following the current discussions on Iraq within the Security Council.

18. Lastly, he wished to reiterate his appeal to the Government: to provide him with all information requested concerning the death penalty; to implement a moratorium on executions; to put an end to actions and policies which directly or indirectly encouraged religious intolerance and other forms of discrimination; to abolish the special courts; and to ensure that all legislation and practices were consistent with Iraq's obligations under international human rights instruments.

19. **Mr. Al-Naama** (Iraq) said that, since it had a positive and serious approach to all United Nations human rights activities, Iraq had received the Special Rapporteur on the situation of human rights in Iraq in February 2002. It had been his first visit to Iraq, and the Iraqi Government had provided him with all necessary facilities, had acceded to all of his requests and had cooperated in ensuring the success of his mission. Iraq had expressed its readiness to receive the Special Rapporteur again, and it was currently arranging the programme for his visit in 2003. Iraq wished to demonstrate its good faith and had a genuine desire to cooperate with the human rights bodies and conduct a constructive, objective and fruitful dialogue with them.

20. The Special Rapporteur's assessment of the humanitarian situation in Iraq had been most deficient, inasmuch as he had characterized the human suffering caused by the enforcement of the embargo as "unintended". The fact was that more than 1.7 million Iraqis had died because of the embargo, and the humanitarian situation it had caused could in no way be described as unintended. The Special Rapporteur had failed to include in his report Iraq's responses to many of the questions he had raised during his visit to Iraq and at his meetings with Iraq's Permanent Representative in Geneva on the grounds that they had yet to be translated. That was inadmissible since the responses had reached him in good time and Arabic was an official language of the United Nations, so that it had the resources necessary for their translation. The Special Rapporteur had urged Iraq "to reply urgently in writing to his request for another visit", but the request had been submitted and approved in principle shortly before the report was prepared.

21. The Special Rapporteur had referred in his report to his requests to the Iraqi Government for information on certain situations to which he had received no replies by the time the report was compiled. He should have waited for the replies and should have included them in his report. In his conclusions, the Special

Rapporteur had reiterated recommendations made in previous reports. That had cast doubt on Iraq's cooperation and might convey the impression that there had been no developments in that connection, which would be untrue.

22. The promotion of human rights required security, peace, stability and normality. That was not the situation in a country that had for more than 12 years been suffering under a total, stifling embargo the like of which mankind had never seen. It had thus far sacrificed 1.7 million victims and had been characterized as a crime of genocide. The daily military aggression of the United States and the United Kingdom and the unilateral and unlawful enforcement of the no-flight zones in northern and southern Iraq were continuing, and threats to attack and occupy Iraq were escalating.

23. Many of the charges of human rights violations against Iraq were in reality made as part of the political and military campaign of the United States and the United Kingdom. The Government of Iraq had the political will to remove all the obstacles to the enhancement of human rights and fundamental freedoms despite the exceptional circumstances. The Government had thus promulgated two amnesty decrees on 20 October 2002, one granting amnesty to all Iraqi prisoners, including political prisoners, and the other amnestying nationals of Arab countries. Many laws and decrees promulgated in the past had been repealed or amended, and a review of others was under way.

24. The Government of Iraq was committed to ensuring the maintenance of such democratic practices as the referendum on the presidency and free and direct elections to the National Assembly and the local people's councils, as well as to ensuring the rights of minorities, women and children. The Government of Iraq valued the efforts being made by the international community to promote norms and principles that sought the good of humanity and the establishment of secure societies that enjoyed prosperity and stability and respected human rights and human dignity. It regretted that such rights were being openly violated by the selective practices of certain States seeking to achieve political objectives. The human rights issue had become a political weapon, a selective instrument subject to double standards and a means of blackmail and pressure used against some States and not others.

25. The crime of genocide was still being committed against the Iraqi people by means of the economic embargo; the aggression of the United States and the United Kingdom was continuing; and the use of depleted-uranium munitions had had a serious impact on life and the environment in Iraq. The Special Rapporteur must therefore meet his humanitarian and legal responsibilities by adopting a clear and explicit stance on the devastating consequences of the embargo and the aggression on basic human rights in Iraq. The Government of Iraq wished to continue its cooperation and to maintain a constructive dialogue with the Special Rapporteur. It wished to engage the other United Nations human rights mechanisms in order to promote human rights and fundamental freedoms in all parts of the world.

26. **Ms. Jepsen** (Denmark), speaking on behalf of the European Union, asked the Special Rapporteur to clarify the terms of reference of his second planned visit to Iraq and to comment on any efforts made by the Government to ensure that humanitarian supplies received under the oil-for-food programme were fairly distributed. He wondered how the Government justified the existence of special courts.

27. **Mr. Yagob** (Libyan Arab Jamahiriya), having welcomed the cooperation established with the Government of Iraq, said that the Special Rapporteur should pay more attention to the humanitarian impact of the sanctions and the impact on the environment of the depleted uranium. In view of Iraq's history of tolerance towards religious minorities, the allegations of discrimination were most surprising. It was a matter of concern that in order to consider notes verbales received from the Permanent Mission of Iraq, the Special Rapporteur required official translations when Arabic was an official language of the United Nations.

28. **Mr. Al-Enezi** (Kuwait) said that the information contained in the report of the Special Rapporteur (A/57/325) indicated that the human rights situation in Iraq continued to deteriorate. His delegation called attention to the fact that, in paragraph 21 of his report, the Special Rapporteur had noted that there had been no positive developments with regard to the issue of Kuwaiti and third-country prisoners and missing persons during the reporting period.

29. Since a Special Rapporteur on the situation of human rights in Iraq had first been appointed in 1991, Iraq had agreed to receive him only once before, in

1992. Nearly 11 years later, Iraq had declared its readiness to cooperate with the Special Rapporteur and had invited him for a first exploratory visit in February 2002. Kuwait had had high expectations of that visit, and it had hoped that the issue of the prisoners and missing persons would be addressed at that time. Although that had not happened, Kuwait nevertheless regarded the visit as a step in the right direction.

30. When the Iraqi Government had announced a general amnesty on 20 October 2002, Kuwait had hoped that it would include the Kuwaiti prisoners, especially when the news agencies reported statements by Iraqi officials that that would be the case. As usual, the outcome had been disappointing, and there had been no change in the situation. In paragraph 40 of his ninth report pursuant to paragraph 14 of Security Council resolution 1284 (1999) (S/2002/931), the Secretary-General had stated that, despite the encouraging agreements at the Arab Summit in Beirut, Iraq's words on the fate of the missing persons had yet to be matched by tangible deeds. There was still a window of opportunity to address humanitarian issues, such as that of missing persons, in good faith. Iraq should use that opportunity to restore its credibility on the outstanding humanitarian issues. Kuwait urged Iraq to resolve the issue, to end the suffering of the missing and their families and to cooperate with the international mechanisms established for that purpose. Kuwait was prepared to cooperate with the Special Rapporteur in resolving the issue, and its officials were ready to meet with him in Kuwait at any time.

31. **Mr. Sookocheff** (Canada) said that the Special Rapporteur should provide further details on the scope of future planned visits to Iraq, as well as his assessment of progress made in the dialogue with the Government. He should also comment on the likely impact of a conflict on the humanitarian situation in the country.

32. **Mr. Amorós Núñez** (Cuba) requested additional information on the impact of sanctions on the human rights situation in Iraq.

33. **Mr. Vigny** (Switzerland), underscoring the need to ensure that released prisoners remained free, said that the Special Rapporteur should seek to elucidate why some prisoners had not benefited from the general amnesty.

34. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq), responding to the issues raised, said that the report (A/57/325) should be read in conjunction with his report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2001/42). In implementing his mandate, he sought to cover a broad spectrum of issues; his previous reports had dealt more closely with some of the unintended humanitarian effects of sanctions. As to the effects of depleted uranium, he had received conflicting reports and was awaiting further clarification.

35. He had requested full details of prisoners benefiting — or otherwise — from the amnesty, in the hope that those released would not be returned to prison. He did not speak every official language of the United Nations and could thus not be expected to consider information received in Arabic only three days before submission of a report. Progress had indeed been made in the context of his dialogue with the Government and he looked forward to continued cooperation. His second visit would cover the full gamut of human rights; its terms of reference would be based on existing guidelines for special rapporteurs. He did not envisage any difficulty in achieving the Government's cooperation.

36. As for the distribution of food supplies received under the oil-for-food programme, he had received no further complaints. The Government of Iraq should certainly be urged to abolish the special courts, for which there was no apparent justification. Their existence only raised suspicions. He was actively pursuing the issue of the missing Kuwaiti prisoners of war. He was not as yet in a position to assess whether the situation of human rights had improved. There were certainly fewer executions, and there had been no recent reports of mutilations. Any consideration of the political implications of a conflict with Iraq lay outside his mandate. He hoped, however, that the matter would be resolved without great difficulties. Concerned that the people of Iraq should not have to endure further suffering, he wished to urge Iraq to comply with Security Council resolutions.

37. **Mr. Dugard** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967), introducing his report contained in document A/57/366 and Add.1, said that the report was based on two visits to the occupied Palestinian territory in 2002 and would focus on the following issues:

security and human rights, the humanitarian crisis, settlements and self-determination and the treatment of children. He accepted that Israel had very real and legitimate security concerns. Waves of suicide bombers had inflicted deep wounds on Israeli society, and the Government had both a right and an obligation to protect its people from further attacks. It should also be stressed that suicide bombings violated the right to life and the most basic principle of international humanitarian law — the duty to distinguish at all times between civilians and combatants. Israel could not therefore be faulted for demanding that the Palestinian Authority should take all necessary steps to prevent suicide bombings and to punish those responsible.

38. At the same time, it must be asked whether the measures resorted to by Israel in response always served a security need. They were often so disproportionate that they seemed in part designed to punish, humiliate and subjugate the Palestinian people. Israel's legitimate security needs must be balanced against the legitimate humanitarian needs of the Palestinian people. It appeared to him that human rights had been sacrificed to security, which in turn produced a greater threat to Israeli security: the hopelessness which lead inexorably to suicide bombings and other acts of violence against Israelis.

39. The humanitarian crisis caused by military operations in the West Bank and Gaza had damaged the social, political and economic fabric of Palestinian society, possibly beyond repair. Curfews and denial of access by villagers to the cities had resulted in unemployment, poverty, malnutrition and illness. Poverty rates, based on consumption of $2 or less a day, had reached 84 per cent in Gaza and 57 per cent in the West Bank. Humanitarian assistance was needed on a massive scale, but at the same time some in the international donor community felt that providing aid relieved Israel of the burden of providing such assistance itself and in that way might be seen as contributing to the funding of the occupation. Under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, Israel itself was obliged to ensure that the Palestinian people had food and medical supplies, to maintain medical services and to facilitate the operation of educational institutions.

40. That settlements constituted a serious violation of the Fourth Geneva Convention was fully recognized by the international community, but their impact on the prospects for Palestinian self-determination and human rights was not sufficiently recognized. They foreclosed the possibility of a Palestinian State as they destroyed the territorial integrity of Palestine. The determination of Israel to maintain and expand its settlements was increasingly seen as a threat to a two-State solution, which held disastrous implications for Israel.

41. The security threat to Israel was generally portrayed as the reason for the closures and checkpoints that had created the humanitarian crisis, but the role of settlements should not be overlooked. Settlements were linked to each other and to Israel by settlers-only roads, and Palestinian roads that crossed them were sealed off, often compelling villagers to make lengthy detours to reach markets, shops, employment, schools and hospitals. The freedom of movement and the right of Palestinians to a decent livelihood were therefore sacrificed to the security and comfort of the settler community. Israel had declared that it had limited its settlement expansion to "natural growth", but their population had grown by 5.6 per cent annually, and they were expanding physically by means of outposts that extended their territory.

42. Children had suffered greatly as a result of military incursions into Palestinian territory, curfews and closures, as detailed in paragraph 10 of A/57/366/Add.1. In his report to the Human Rights Commission, he had called on Israel to conduct a full investigation into the treatment of Palestinian children in detention, which, at the least, was alleged to constitute inhumane and degrading treatment, and, at most, torture. There had been no response to that call. The time had come for concerted action on the part of the international community to take steps to protect children in the region. Failure to do so was a recipe for future disaster.

43. **Mr. Tamir** (Israel) said that his delegation was dismayed at the annual ritual of vilification of the State of Israel in the form of the report just presented. The report was inherently biased, rife with observations of a political nature and entirely counterproductive. It would not serve to advance human rights, or to alleviate the situation of the Palestinian people. It amounted to an endorsement of Palestinian intransigence and the shortsighted political decision to forego dialogue and negotiation in favour of a campaign of violence and terrorism.

44. The report gave the impression that measures taken by Israel to protect civilian lives were more serious violations of international law than the atrocities of the terrorists. By far the most irresponsible aspect of the report was its repeated attempts to justify acts of terror. It asserted that the violation of human rights in the West Bank and Gaza had produced acts of terrorism in Israel, yet Palestinian terrorism against Jews even predated the establishment of the State of Israel in 1948.

45. The Special Rapporteur's prescriptions to remedy the situation were no less troubling. Israel was facing attacks from groups dedicated to its total destruction, yet his advice was that promotion and protection of human rights was the most effective method of combating terrorism. Every humanitarian gesture was rejected and abused by terrorists bent on the destruction of any peace process and the murder of innocent civilians. The use of ambulances to transport terrorists and weapons and arms smuggling during the lifting of closures should be condemned in the most severe terms, yet nothing was said.

46. Many in the international community were calling for an end to violence and classifying suicide bombing as a crime against humanity and a war crime, and were placing a high degree of political responsibility for the atrocities on the Chairman of the Palestinian Authority, but the Special Rapporteur had once again chosen to demonstrate the irrelevance of his mandate by refusing to acknowledge Palestinian complicity and responsibility. The report as presented did not advance human rights in the territories, nor did it serve the cause of peace. The only thing that had been strengthened had been the Palestinian rejection of Israel's legitimacy and their determination to claim more innocent lives.

47. **Ms. Jepsen** (Denmark), speaking on behalf of the European Union, asked what might be done to improve access for humanitarian assistance and development programmes to the occupied Palestinian territories. With regard to the settlement policy, she wondered what the human rights consequences would be of the new security fence being constructed. The mandate of the Special Rapporteur had been formulated in 1993, but it might be time to reformulate it to reflect current reality on the ground. The European Union would also like to hear more about new Israeli anti-terrorism measures, such as the withdrawal of citizenship of Arab Israelis.

48. **Ms. Barghouti** (Observer for Palestine) said that her delegation was grateful for the report, which gave a full accounting of the situation in the occupied territories and the sufferings of the Palestinian people. It also appreciated the visits that the Special Rapporteur had made to Palestine, which had enabled him to reflect the facts of the situation on the ground. When the occupation ended, the violence and suffering would also end.

49. **Ms. Al Haj Ali** (Syrian Arab Republic) said that the report reflected the catastrophic human rights situation in the Palestinian territories, and the Israeli occupation was the main reason for it.

50. **Ms. Khalil** (Egypt) said that the report reflected the deteriorating situation of the Palestinian people. The sacrifice of human rights to security only led to a greater threat.

51. **Mr. Yagob** (Libyan Arab Jamahiriya) said that his delegation agreed with the Special Rapporteur that the balance between the security needs of Israel and the humanitarian needs of the Palestinian people had been lost. Israeli settlements clearly violated the Fourth Geneva Convention, and were virtually military outposts. The Security Council must take action to end the occupation.

52. **Mr. Dugard** (Special Rapporteur of the Commission on Human Rights on the situation in the Palestinian territories occupied by Israel since 1967), in reply to Denmark, said that he had not conducted a thorough study of the question, but that to his knowledge, Israel did allow humanitarian assistance to reach the Palestinian people, although it was subjected to security clearance. He had seen the security fence being built between Palestinian territory and Israel, and he did not believe that it was the solution to the problem; negotiation and dialogue would be more useful. It was not likely that the fence would follow the green line, and the result would be a further annexation of Palestinian territory. It was also not clear what would happen to settlements lying within the wall.

53. As for the questions regarding his mandate and some of the criticisms from Israel, in 1993, when the mandate of the Special Rapporteur had been established, the focus had been placed on the Palestinian Authority, but as the Israeli military occupation had intensified, the Authority had less control over events in the territories. Thus, in the current context the emphasis was being placed on

violations by the occupying Power. He hoped that the Israeli Government would not resort to the withdrawal of citizenship of Arab Israelis. From his personal experience of such practices in South Africa under apartheid, he believed that such measures should be condemned.

54. In response to the representative of Israel, he said that there was a real need for dialogue between Israel and the international community on terrorism and the human rights violations resulting from the occupation. The Government saw itself as under threat and thus entitled to take all necessary measures to counter that threat. The other side saw the occupation as the source of all evil in the region. In his opinion, it was not possible to take the view that the occupation had nothing to do with the cause of terrorism, as despair for the future made Palestinian young people believe that they had no other choice. He was aware that he would not persuade the Israeli delegation of that view immediately, but he urged them to reflect on what would motivate young people to commit such destructive acts.

55. **Mr. Leuprecht** (Special Representative of the Secretary-General for human rights in Cambodia), introducing his report on the situation of human rights in Cambodia (A/57/230), said that for Cambodia to progress on the road from murderous violence to peace and harmony, it would have to come to terms with its past. Its wounded society needed the discovery of truth, healing and justice, and it was his hope that the Secretary-General would be given a mandate to resume negotiations with the Cambodian Government on the establishment of a Khmer Rouge tribunal. Cambodia had come a long way over the past decade, but much remained to be done to ensure a life in dignity for all Cambodians. All the human rights issues addressed had cross-cutting aspects, illustrating the indivisibility of human rights.

56. Without judicial reform, it would be almost impossible to put an end to impunity. The law must be enforced in the same way for all, rich or poor, powerful or weak. Mob killings must be stopped and those responsible brought to justice. Furthermore, there could not be a strong and independent judiciary without a strong and independent bar, and the shortage of lawyers must be addressed urgently. Lack of access to land and involuntary relocation affected Cambodia's poor, further widening the wealth gap in one of the world's poorest countries.

57. Trafficking in human beings, a cross-border phenomenon in Southeast Asia, was flourishing in Cambodia in a context of poor law enforcement and corruption. According to reliable estimates, more than 200,000 women and children were trafficked annually, many subjected to sexual exploitation. Education was a key to the future, and equal access for all children and young people must be ensured. The gender gap must be addressed in particular.

58. The first local elections had been held last February, and general elections were scheduled for July 2003. The local elections had been shadowed by violence and intimidation, and the Government and law enforcement officials must do everything in their power to prevent its repetition at the general elections and to show proper neutrality. The National Electoral Commission must become a truly independent, neutral and transparent body. Equal access to the media must be ensured for all political parties.

59. Improvement of the overall human rights situation in Cambodia required a global strategy and strong political will. The interests of the people must come first. Donors should intensify their aid and ensure that it truly benefited the poorest of the poor. In turn, the Government must understand that aid was a partnership and that donors were entitled to see results.

60. **Mr. Sun Suon** (Cambodia) said that his Government had improved the enjoyment of many human rights, including the alleviation of poverty and the promotion of economic progress, which was also a fundamental human right, to which no reference had been made in the Special Representative's report. Cambodia's struggle to improve its institutions, including its legislative, executive and judicial branches, since the 1998 elections and its holding of its first commune elections had received the imprimatur of the donor community through its support.

61. While much remained to be done and the country's top priorities at the current juncture were poverty alleviation, food security, housing, and the satisfaction of basic needs, it was also rapidly moving towards integration into the regional and world community. It was an active member of the Association of South-East Asian Nations (ASEAN), participated in other international forums and had applied for membership in the World Trade Organization. Its status of signatory to the Rome Statute of the International Criminal Court attested to its dedication to human

rights and the rule of law, while its successful hosting of a number of major regional and interregional events demonstrated its progress in all aspects of life.

62. Thanking the Special Representative for his efforts reflected in the report, his delegation was nonetheless disappointed with some of its content. He had noted that his Government's comments had not been appended thereto, in breach of the 1995 agreement reached with the Special Envoy of the then Secretary-General. His Government was in the process of drafting a law on the status of judges that would ensure their independence, and on the creation of a school for judges, entry to which would be by public competitive examination. In any event, corruption among the judiciary had been greatly reduced as a result of Government action.

63. His Government also welcomed the international community's efforts to encourage the United Nations to resume negotiations on the establishment of a Khmer Rouge tribunal based on the principle of justice and internationally accepted standards, from which it had unilaterally withdrawn nine months before. His delegation was cooperating with a group of interested States on a draft resolution to that effect and thanked the Special Representative for his efforts in that regard. However, the allegation that the National Election Committee (NEC) had denied equitable access to the public media during the election campaign was mere exaggeration. Equitable access was spelled out in Cambodian electoral law and, indeed, the United Nations Development Programme (UNDP) had described the elections as fair and credible.

64. The Government had increased the national education budget to US$ 19.3 million — making it the highest national budgetary allocation — with a view to eliminating corruption in schools and affording poor children free access to education, and illiteracy rates in primary and secondary schools had sharply declined. He took serious issue with the statement in the report that the Phnom Penh municipal authorities had set fire to settlements in 2001 and had forcibly resettled 3,300 families in appalling conditions, without clean water, schools or clinics. Those concerned were illegal squatters, whose settlements had burned down accidentally or through their own negligence. Their resettlement had been undertaken with their full consent and the promise of basic facilities and infrastructure. The municipal authorities had resolved to raze those slums to preserve the environment along the Mekong river, maintain law and order and beautify the city.

65. His delegation was also disappointed with the draft resolution being submitted yet again. Much of it contained outdated concepts and language, as attested to by the differences of opinion among the sponsors, some of whom had shown no appreciation of Cambodia's achievements. That was particularly important, given the desirability, almost unanimously expressed in the Committee, of rationalizing the Organization's agenda and discarding old items. The issues contained in the draft resolution pertained to many countries; Cambodia should not be singled out for special treatment. The protection of human rights was undeniably one of his country's priorities. However, its cross-cutting nature, which derived from the indivisibility of those rights, made it an ongoing process, for which good partnership, mutual understanding and constructive cooperation were essential. In conclusion, he thanked the Japanese delegation for its guidance through the protracted negotiations on the draft resolution, and other delegations for their cooperation.

66. **Ms. Jepsen** (Denmark), speaking on behalf of the European Union, said that the Special Representative's report had drawn particular attention to the problems of the judiciary in Cambodia, which was at the root of many of its difficulties, such as corruption, impunity and election violence. She asked what major developments there had been regarding judicial reform since the Special Representative's last visit and what priorities the donor community and the Government should set for securing change.

67. Having noted with interest his comments on the possibilities of establishing a tribunal to seek truth and justice for the crimes of the Khmer Rouge, she asked what action was expected of all the parties to ensure United Nations support for the tribunal. Since the Special Rapporteur on Summary Executions had complained of the Cambodian authorities' failure to reply to any of her requests over the previous five years, she wondered whether a joint mission with her was planned. In conclusion, she asked how the Special Representative viewed the situation of asylum-seekers in Cambodia and the capacity of the Office of the United Nations High Commissioner for Refugees (UNHCR) to fulfil its mandate there.

68. **Ms. Fusano** (Japan) said that her Government looked forward to continued cooperation with the Special Representative. Some achievements had been made in the overall situation during the previous year, including the holding of commune council elections, and the human rights situation was moving in the right direction. She wondered what the international community could do to help Cambodia prepare for the forthcoming general election. Also, the perpetrators of the Khmer Rouge's atrocities should be brought to justice; hence, the international community should support the authorities' efforts to set up the special tribunal. Her delegation welcomed the Special Representative's support for the early resumption of negotiations between the Government and the United Nations to that end. She would also be interested in the Special Representative's assessment of the Cambodian people's desire for such a tribunal and of the importance of the issue for the international community.

69. **Mr. Leuprecht** (Special Representative of the Secretary-General for human rights in Cambodia) said he would reply to the questions and comments from the representative of Cambodia in a constructive, rather than polemical, spirit. He had received no reply to his repeated requests from the Cambodian authorities following each of his reports, but would not fail to append any that he received to future reports, in the hope of fostering a meaningful dialogue with them. Nor had he omitted issues such as poverty from any of his reports to the organs of the Organization. Moreover, believing in the indivisibility of human rights, he had also given serious attention to issues relating to economic, social and cultural rights. His report contained no hint that the authorities had set fire to some areas of Phnom Penh, but a simple statement that fires had been started and that 3,300 families had been relocated in extremely difficult conditions, which he himself had witnessed. He had also expressed satisfaction at the many assurances, especially from the Governor of Phnom Penh, that the situation would be remedied and that such relocations would not recur.

70. He had indeed proposed that an independent body of inquiry should be set up to investigate mob killings, and the King had endorsed his proposal in writing, as a likely means of ending the tragedy. The idea had also kindled the interest of the Secretary of State in the Ministry of Interior, who had promised that the police would be instructed to prevent a recurrence of those incidents. That having been said, the attacks had seemingly declined since the publication of his report, and only one had occurred since his June visit. While, technically speaking, the commune elections had been properly conducted, equal access by all political parties to the media had not been granted. Indeed, the astonishing explanation offered by the President of the NEC was that to do so would incite unrest.

71. A solution to the problems of the judiciary was essential to Cambodia's future development, but little progress had been made since his previous report. Although the new Council for Legal and Judicial Reform would be meeting the following week, he deemed the number of new plans and institutions mandated to study judicial reform to be in inverse proportion to their results. Little progress had been made in meeting the benchmarks agreed upon at the last meeting of donors concerning, inter alia, the Supreme Council of Magistracy — which, as the guardian of an independent judiciary, must itself be independent — and the Statute of Judges, which was unfortunately still before the Council of Ministers.

72. His positive findings included the planned establishment of a royal school for training judges and the fulfilment by the Minister of Justice of his commitments not to instruct judges how they should rule, and to start fighting corruption within his Ministry. In that regard, improved cooperation within the donor community would not come amiss. He had visited Cambodia to sound out public opinion on a Khmer Rouge tribunal. The consensus among people of different origins and generations had been the wish to learn the truth and for justice to be done. Any credible process would require the involvement of the United Nations, which he hoped would soon return to the negotiating table. Any agreement reached should be in line with the fundamental principles of justice and due process, as described in article 14 of the International Covenant on Civil and Political Rights, to which Cambodia was a party. He had no plans to undertake a joint visit with the Special Rapporteur on summary executions, but was willing to discuss the matter with her and with the Special Representative on human rights defenders.

73. Virtually no progress had been made regarding Montagnard asylum-seekers. With the destruction of the United Nations camp near the border, many had sought refuge in the forests, unable to reach the Phnom Penh office of UNHCR, which no longer had access to

the border. Those found there had been repatriated to Viet Nam, and people who had previously helped them were unwilling to do so owing to threats of reprisal. Where the general election was concerned, the international community could play a significant role, not only through observers immediately prior to and during the elections, but in the early stages, through the United Nations electoral programmes and the UNDP and UNHCR offices, which could advise on the organization of independent electoral officers. Although for historical reasons it was exceedingly difficult for anything to be independent in Cambodia, progress was always possible.

74. Human rights issues in Cambodia, were not, as its representative had averred, issues of the past. In the two years since he had become Special Representative, he had been increasingly involved with the country emotionally and wished only to alleviate the suffering of its people.

75. **Mr. Twining** (United States of America) said he hoped that the Special Representative's future activities would focus on the five major areas that he had outlined, with priority possibly assigned to the reform of the judiciary, which his country readily supported. His delegation also advocated the establishment of a Khmer Rouge tribunal and hoped that Cambodia would be willing to co-sponsor a draft resolution to be submitted to that effect.

76. **Ms. Ngo Duc Thaag** (Viet Nam) thanked the Japanese delegation for its efforts to obtain a consensus resolution on human rights in Cambodia. The Vietnamese authorities had sought international cooperation for the repatriation of the Montagnards, who were not refugees but had crossed the border into Cambodia illegally. The repatriation had taken place in accordance with the principles of safety and respect for human dignity; the Government's policy was not to persecute the Montagnards, but to reintegrate them into their community. While their departure had been motivated by the relative underdevelopment of their area, they had also been deceived by evil foreign instigators making fictitious allegations and raising false expectations. The authorities were committed to a long-term strategy for narrowing the development gap between that area and others and between Viet Nam and other countries.

77. **Mr. Leuprecht** (Special Representative of the Secretary-General for human rights in Cambodia) assured the representative of the United States that he would pursue the five points mentioned, in addition to economic, social and cultural rights, including the burning issue of health in Cambodia and the enormous debts incurred by families for health services. He reminded the representative of Viet Nam that the Montagnards were unable to have their status determined, lacking, as they did, access to the UNHCR office in Phnom Penh. Moreover, the core principle of non-refoulement lay at the heart of the Convention relating to the Status of Refugees; where repatriation occurred it had to be voluntary.

The meeting rose at 6.10 p.m.